

LAWS
OF
CUBA, PUERTO RICO
AND THE
PHILIPPINES

CIVIL CODE
COMMERCIAL CODE
CONSTITUTION
MUNICIPAL
PROVINCIAL
CIVIL ADMINISTRATION
ELECTORAL

VOL. I.



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LAWS

OF

CUBA, PUERTO RICO, AND THE PHILIPPINES.

WAR DEPARTMENT,
DIVISION OF CUSTOMS AND INSULAR AFFAIRS,
1899.

VOLUME I.

WASHINGTON:
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1899.

CONTENTS—VOLUME I.

1 Civil code for Cuba, Puerto Rico, and the Philippines.
2 Code of commerce in force in Cuba, Puerto Rico, and the Philippines, including the commercial registry regulations, exchange regulations, and other provisions of a similar character.
3 Constitution establishing self-government in the islands of Cuba and Puerto Rico, promulgated November 25, 1897.
4 Municipal and provincial laws in force in the island of Cuba.
5 Provincial and municipal laws of Puerto Rico.
6 Laws relating to the civil administration and government of the island of Puerto Rico.
7 Electoral law for the election of councilors and provincial deputies in Puerto Rico.
8 Adaptation of the electoral law of June 26, 1890, to the islands of Cuba and Puerto Rico.

TRANSLATION.

CONSTITUTION

ESTABLISHING

SELF-GOVERNMENT

IN

THE ISLANDS OF CUBA AND PORTO RICO.

PROMULGATED BY ROYAL DECREE OF NOVEMBER 25, 1897.

DIVISION OF CUSTOMS AND INSULAR AFFAIRS,
WAR DEPARTMENT,
August, 1899.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1899.

NEW CONSTITUTION ESTABLISHING SELF-GOVERNMENT IN THE ISLANDS OF CUBA AND PORTO RICO.

PREAMBLE.

MADAM: In approaching the important problem of the introduction of colonial autonomy into the islands of Cuba and Porto Rico, a task which, together with that of the pacification of the island of Cuba, constitutes the obligations which the Government has contracted toward the nation, the ministers are of opinion that detailed explanations and comments on the complex matters which the project embraces should give place to a sober but complete exposition of its fundamental characteristics, of the spheres of action to which it extends, and of the consequences which, in their judgment, the system which they propose to Your Majesty for the government of the Spanish Antilles will produce.

Criticism and analysis will very soon elucidate what refers to the details of this system; the essential principles and the spirit of the decree are all that can properly be set forth here and at this time.

To do this is the more necessary, since the first and most essential condition of success in this class of reforms is absolute sincerity of purpose. With sincerity the Government has proceeded to consider the best form of autonomic constitution for the islands of Cuba and Porto Rico; and that the results have not fallen short of its intention it hopes to give in these observations complete proof.

The Government proposed to itself to state the principle clearly, to unfold it in all its integrity, and to surround it with all the guaranties necessary to its success. For when it is proposed to intrust the direction of their affairs to peoples that have attained their majority, either autonomy should not be offered to them at all, or it should be given to them complete, in the conviction that they are thus put on the path to prosperity, unhampered by restrictions or impediments springing from mistrust or suspicion. Either the defense of the nation's integrity is to

be delivered to repression and force, or it is to be intrusted to the union of common affections and traditions with common interests, a union that will be strengthened in proportion as it is developed by the advantages of this system of government, advantages which shall prove clearly to the colonies that under no other system would it be possible for them to attain a greater degree of prosperity, security, and importance.

This being established, it was an essential condition to the attainment of the desired end to seek a form for this principle which should be practical and intelligible to the people to be governed by it; and this form the Government found in the programme of that insular party, considerable from its numbers, but more important still from its intelligence and its constancy, whose aspirations for twenty years past have familiarized the Cuban people with the spirit, the methods, and the vast importance of the profound innovation which they are now called upon to introduce into their political and social life.

With which it is plainly proved that the project is in no way theoretical, nor is it an imitation or copy of other colonial constitutions, regarded justly as models of their kind, for although the Government has kept well in mind their teachings, it comprehends that the institutions of peoples who in their history and their race differ so greatly from the Cuban people could not take root where they have neither precedent nor conditions favorable to their development, and where the preparation born of education and beliefs does not exist.

The problem being thus stated, and the question being to give an autonomic constitution to a Spanish territory, peopled by the Spanish race and civilized by Spain, the solution was not doubtful. Autonomy must be developed within the lines of and in accordance with the programme which bears that name in the Antilles, without eliminating any of its substantial bases, and, above all, without altering its spirit, completing it and harmonizing it rather by giving it greater guaranties of stability, as behooves the government of a metropolis which feels impelled to implant it from a conviction of its advantages, from the desire to carry peace and tranquillity to such valued territories, and from the consciousness of its responsibilities, not only to its colony, but also to its own vast interests, interwoven so closely in the course of years with hers.

Thus assured of the form which best corresponded with its purpose, it was not difficult to discern the three important aspects which the implanting of an autonomic constitution presents. In the first place, the sacred interests of the mother country, who, alarmed and rendered distrustful by the conduct of many of her children, and wounded by the ingratitude of those who have more confidence in the selfishness of the political adventurer than in the affection of the brother, she desires, above all things, that the approaching change shall strengthen and confirm the sovereignty, and that in the midst of a blessed peace the

interests of all her children which are not opposed to, nor in contradiction with, although they may at times be distinct from, one another, shall be brought into harmony, made coexistent, and developed with the free concurrence of all.

In the second place, the aspirations, the needs, the desires of colonies anxious to be treated as unfortunate children, instead of being destroyed like enemies, responsive to the call of affection, but, as Spaniards, rebellious to the brutal imposition of exterminating force, which expect from the mother country a form that shall mold their initiatives, and a system which shall authorize them to govern their interests.

And, finally, that vast and interesting aggregation of the relations created, the interests developed in the long past, which no one, and especially no government, may justly disclaim or neglect, and whose maintenance and development involve the realization of the destiny of our race in America and the glory of the Spanish flag in the lands discovered and civilized by our ancestors.

To these three orders of ideas correspond the fundamental provisions of the project submitted to the approval of Your Majesty. To the first—that is, to the metropolitan aspect—belong the question of sovereignty, intrusted to the highest bodies of the Spanish nation. The power and authority of the King, who is the nation itself; the command of the naval and military forces; the administration of justice; diplomatic intercourse with America; the constant and beneficial relations between the colony and the mother country; the power of pardon; the guarding and defense of the constitution—are instrusted to the Governor-General, as the representative of the King, and under the direction of the council of ministers. Nothing of what is essential has been forgotten, and in no degree is the authority of the central power diminished or lessened.

The insular aspect reveals itself, in its turn, in as complete and perfect a manner as the most exacting could require in central, provincial, and municipal autonomy; in the application, without reserve, ambiguity, or double meaning, of the parliamentary system; in the powers of the insular chambers, and in the creation of a responsible government, at whose head, and forming the supreme bond of nationality in what refers to the executive power, the Governor-General appears anew, presiding, on the one hand, through responsible ministers, over the development of the life of the colony, and on the other, binding this to and bringing it into relation with the general life of the nation.

And the third aspect, which embraces all that refers to the relations between the Antilles and the metropolis, and in which must also be developed their commerce, their credit, and their wealth, is defined in a series of provisions of a permanent character, which unite the two executive powers, the insular and the national, and on certain occasions their chambers, so that at all times and in the varying cares of life they may mutually support and aid each other in the development of their common interests.

And all this multiple and complex, although not complicated system is legalized and made practicable by a series of guaranties, of bonds, of constant interchange of ideas, and of public discussions, which will render impossible, so far as human knowledge can foresee, dilemmas without escape, irreconcilable differences or collisions between the colony and the mother country.

This last is a point of such importance that the Government would in any case have subordinated to it every other question, had this been necessary; but it was not, nor could it be necessary, since the basis of the new system rests upon the harmony of interests of the two countries, a scrupulous respect of mutual rights, and the desire on the part of the mother country to aid unceasingly in the development, prosperity, and peaceful progress of her beautiful Antilles, a desire which the Government does not doubt will find in them a loyal response.

This does not mean that questions may not present themselves in which the two spheres of action will be confounded, and legitimate doubts arise as to which is the preponderating interest in them; and, following the doubt, more or less heated discussion. In no self-governing colony has this failed to occur; in none has it been the case that the central power always and systematically approves the acts of the colonial power. The list is long of the legislative resolutions of Canada on which the English government has put its veto, and curious, and interesting, besides, the series of judicial decisions which have gradually defined the various powers of its local assemblies, now among themselves, now in relation to their governments; and this, notwithstanding the great decentralization and the past history of Canada, and the existence of free trade, simplify considerably the relations between the two countries.

But the excellence of the system will consist in this, that when such cases occur, and especially if they are to be of frequent occurrence, the various powers, both as regards the colonial constitution and as regards the relations of the colony with the mother country, shall be so exactly determined that there may always be room for a settlement of the case, that a means of coming to an understanding may never be wanting, and that no occasion can arise when a common ground may not be found in which opposing interests may be reconciled, the opposition between them disappear, or both parties bow to the decision of the court.

If, therefore, the rights which the constitution guarantees to all citizens should be violated, or their interests injured by the municipal or provincial bodies, which in this system are also, on their part, completely autonomous, the courts of justice will defend and protect them; if the corporations exceed their powers, or if, on the other hand, the executive power attempts to diminish what the constitution of the Kingdom or the provisions of this decree declare to be attributes proper to the municipal or provincial bodies, the aggrieved party has the recourse of appealing to the courts of the island, and, finally, to

the supreme court, whose province it shall be to determine the respective powers of jurisdiction of the Governor-General and the Colonial Parliament, whichever may be the appellant, for both shall be equally qualified to appeal to the courts, and to seek legal redress for their injuries.

In this manner, whatever difficulties may arise from the implanting of the system, or may spring up in its exercise, shall be settled by the courts, whose source of legislation, from ancient Rome down to modern England, has been the most progressive, and whose procedure the most flexible to reconcile the increasing exigencies of real life with the delays of the law.

In this manner, the autonomic constitution which the Government proposes for the islands of Cuba and Porto Rico is neither exotic, nor copied, nor imitated; it is a constitution of our own, conceived and preached by the Antillian Spaniards, willingly inscribed on its programme by the Liberal party, in order that the nation might know what to expect from it when it assumed power, and which is marked by a characteristic that no other colonial system has ever before presented. The Antilles can be completely autonomous, in the broadest signification of the word, and at the same time have representation in, and form part of, the national parliament.

So that while the representatives of the insular people govern, in their local chambers, the interests peculiar and special to their country, other representatives, chosen by the same people shall assist and cooperate in the Cortes in the framing of the laws that are the mold in which are amalgamated and unified the diverse elements that form the Spanish nation. And this is no trifling or insignificant advantage, and still less should it be a matter for surprise, as some may perhaps consider it to be, for this presence of the Antillian deputies in the Cortes is a close bond of the national unity, which rises above all the unities that exist in its bosom, a privilege solicited to-day, as one of the greatest political advances of our times, by the autonomous English colonies, which desire to share, in an Imperial Parliament, in the high functions of legislators and rulers of the great British Empire.

This form, then, peculiar to the system adopted by Spain, at the same time that it gives this system a special significance, means, if not a step in progress brought about by time, an advantage conferred upon us by circumstances in just compensation for the immense afflictions which our colonial history records.

The Government acknowledges frankly that for the success of its work public discussion in parliament and the criticism of public opinion, in the press, on the platform, and in books, would have been better; but the fault does not lie with it, as the fault did not lie with the last Government, that the stress of circumstances obliges it to dispense with so precious a guaranty. But if the party which to-day serves in the Government the interest of the Crown and of the country did not hesitate for a moment to approve, at the time, the policy initiated by the Conservative party, nor to vote it the indemnity which it asked

from the Cortes, now, when circumstances press still more heavily, it has the right to expect that public opinion will approve its conduct to-day and that the Cortes will absolve it from blame to-morrow.

For this reason it does not hesitate to accept the responsibility, and it purposes to put into immediate effect and to apply practically the solutions contained in the present decree with the same sincerity with which it has formulated and executed it, rejecting even the suspicion that there could be any indecision in its conduct or any reservation in its promises. For if the system should fail in any degree in practice through a want of good faith on the part of any, it will not be—and we are proud to declare it—through the fault of the men who are animated above all by the noble desire of pacifying the country.

With this the Government believes that it has said all that was necessary for an understanding of the genesis, the inspiration, and the character of the project establishing in Cuba and Porto Rico autonomic rule, which it submits to Your Majesty. To those who are familiar with the text of the constitution of the Monarchy, that of the project will assuredly present no great difficulty, since the Government has adjusted it, in so far as has been possible, to the organic system of the former, to the distribution of its titles, and even to its form of expression. The modifications of the constitutional articles are accessory and circumstantial; the additions correspond to its special character and have in view the making efficacious of its provisions and the facilitating of their execution.

Some omissions there doubtless are that will require to be supplied, and some corrections that will require to be made in the decree; the censure and the defense which will be at the same time made of its provisions will show what they are; examination will show also what foundation there is for both censure and defense, allowing the good to be incorporated in the plan and that which does not correspond with its fundamental principles to be eliminated from it when the time comes for it to receive the sanction of the Cortes.

Let it be understood, however, that the Government will not withdraw from it, and will not consent that there shall be withdrawn from it any part of what constitutes the liberties, the guarantees, and the privileges of the colony, for, ready as it is to complete the work and to clear up all doubts, it does not believe that on presenting it for the parliamentary sanction the concessions made can suffer diminution, nor will it consent to this if it can count upon a majority in the Chambers.

But although the preceding statement embraces all that the Government deems necessary to explain the general lines of the decree, it yet believes it indispensable, for reasons easy to comprehend, to fix the meaning of the articles which refer to tariff autonomy and to the debt which rests on the Cuban treasury.

The export trade between the Peninsula and Cuba, which represents some $30,000,000 annually, and which, besides, gives occasion for an important carrying trade, has, up to the present, been subjected to a

system of discrimination altogether incompatible with the principle of colonial autonomy.

This involves the power of regulating the conditions of import and export trade and the free administration of its customs houses. To deny these to Cuba or to Porto Rico would be equivalent to nullifying the principles that have been laid down; to attempt to falsify them would be incompatible with the dignity of the nation. What it behooves the Government to do, after recognizing the principle in all its integrity, is to endeavor that the transition shall be made gradually and without prejudice to the interests developed under the protection of the old system, and for this purpose to make an agreement with the Antillian governments.

For the most ardent supporters of autonomy have never denied the disposition of those countries to recognize, in favor of the genuinely national industries and trade, a margin which shall assure them that market.

Their representatives in the Cortes have always declared this, and all parties in the island of Cuba continue to declare it, according to testimony which the Government holds to be unimpeachable. Complaints have been founded, not on the existence of preferential duties, but on their excess, which prevented the Antilles from securing the markets which they need for their rich and abundant products and on a want of reciprocity. No invincible difficulties existing, then, it may be safely asserted that such an agreement is not only possible but assured, especially when it is considered that Cuba imports from the Peninsula only about fifty articles of the 400 on the tariff, and that many of those, from their particular character and on account of the customs and tastes of the natives of those countries, have nothing to fear from the competition of similar foreign articles.

Neither the manufacturers of the Peninsula, then, nor the shipowners need be alarmed at the declaration of an autonomy which, when the conditions on which the tariff is founded are changed, will not alter the essential basis of the economic relations between Spain and the Antilles. There will no doubt be some difficulty in reconciling or compensating for the differences that are inevitable in a change of commercial systems; it will be necessary to combine, in some manner, both tariffs; but neither are the Cuban interests opposed to those of the Peninsula nor is it the interest of any party to diminish commercial relations between the two countries.

If, indeed, the insular government were already constituted, and if it were possible to agree upon a system of commercial relations with it, this question would not have assumed proportions which it does not possess, nor would there be any cause for predicting ruin and misfortune; facts would silence suppositions. Notwithstanding this, the Government has considered that, to quiet anxiety, it ought to anticipate events, and that instead of leaving the solution of the question to the natural operation of the new constitution, it was proper to fix at

once the basis of the future commercial relations between the mother country and the colonies. And in doing this, and in order to remove all cause for mistrust, it has hastened to fix a maximum to the preferential duties to be imposed on Peninsular goods, offering, as is just, the same rate to insular products.

The basis of such an agreement, then, being fixed and determined, the principle of autonomy guaranteed, the equality of powers in the system to be adopted indisputably established, and the spirit which animates the colonists known, the transaction will be easy and its results advantageous to both parties.

As regards the debt which rests upon the Cuban treasury, whether directly or through the guaranty which it has given to that of the Peninsula, and which this bears in like manner, the justice of dividing it equitably when the termination of the war shall allow its amount to be definitely fixed, is beyond a doubt.

Nor will this be so enormous, we may hope, that it will be an insupportable burden for the nation; nor is the nation so lacking in resources as that the future need alarm it. A country which has given in the past months such splendid proofs of virility and social discipline, a territory which, like Cuba, has produced, even in the midst of its political convulsions and an almost uninterrupted warfare of thirty years, so much wealth, cultivating only a small part of its rich and fertile soil, and which has done this with its own resources alone, with few institutions of credit, fighting against privileged sugars, the American markets closed to its manufactured cigars, and changing at the same time slave to free labor, may well confront serenely the payment of its obligations and inspire its creditors with confidence.

Therefore, in the opinion of the Government, it behooves it to think now rather of the manner of settling the debt, and if possible of paying it off, than of apportioning it, applying the economic methods of our time to the vast riches which the soil of Cuba assures to the agriculturalist and her subsoil to the miner, and profiting by the extraordinary facilities which the geographical form and position of the island that, not without reason, has been called the Pearl of the Antilles, offer to the trade of the world. Although none of these matters can yet be legislated upon, it is well to keep them in mind and to give serious thought to them, since to others, who can not assuredly be accused of being either visionaries or enthusiasts, it has occurred to profit by those abundant sources of wealth, and not assuredly for the benefit of Spain or to maintain her sovereignty. When they have done this it would be folly in us not to imitate their example, and so convert into a ransom of the past and a guaranty for the future what has perhaps been an incentive to the war and the origin in great part of the evils, to remedy which, is now our most earnest desire.

Guided by these considerations the Government has the honor to submit to the approval of Your Majesty the adjoined plan of decree.

MADRID, *November 25, 1897.*

ROYAL DECREE.

Upon the proposition of my Prime Minister, and with the concurrence of the Council of Ministers in the name of my august son, King Alfonso XIII, and as Queen Regent of the Kingdom, I hereby decree as follows:

TITLE I.*

GOVERNMENT AND CIVIL ADMINISTRATION IN THE ISLANDS OF CUBA AND PORTO RICO.

ARTICLE 1. The system of government and civil administration in the islands of Cuba and Porto Rico shall hereafter be carried on in conformity with the following provisions:

ART. 2. Each island shall be governed by an insular parliament, consisting of two chambers, and by the Governor-General, representing the mother country, who shall exercise supreme authority.

TITLE II.

THE INSULAR CHAMBERS.

ART. 3. The legislative power as to colonial matters in the shape and manner prescribed by law, shall be vested in the insular chambers conjointly with the Governor-General.

ART. 4. Insular representation shall consist of two bodies of equal powers, which shall be known as chamber of representatives and council of administration.

*EXPLANATORY NOTE.—To facilitate the understanding of this decree and to avoid confusion as to the legal value of the terms employed therein the following definitions are to be observed:

Central Executive Power	The King with his Council of Ministers.
The Spanish Parliament	The Cortes with the King.
The Spanish Chambers	The Congress and the Senate.
The Central Government	The Council of Ministers of the Kingdom.
The Colonial Parliament	The two Chambers with the Governor-General.
The Colonial Chambers	The Council of Administration and the Chamber of Representatives.
Colonial Legislative Assemblies	The Council of Administration and the Chamber of Representatives.
Governor-General in Council	The Governor-General with the Secretaries of his Cabinet.
Instructions of the Governor-General	Those which he may have received when named for his office.
Statute	Colonial measure of a legislative character.
Colonial Statutes	Colonial Legislation.
Legislation or General Laws	Legislation or laws of the Kingdom.

TITLE III.

COUNCIL OF ADMINISTRATION.

ART. 5. The council shall be composed of thirty-five members, of whom eighteen shall be elected in the manner directed by the electoral law and seventeen shall be appointed by the Governor-General acting for the Crown, from among such persons as have the qualifications specified in the following articles:

ART. 6. To be entitled to sit in the council of administration it is necessary to be a Spanish subject; to have attained the age of thirty-five years; to have been born in the island, or to have had four years' constant residence therein; not to be subject to any pending criminal prosecution; to be in the full enjoyment of his political rights; to have his property free from attachment; to have had for two or more years previous an annual income of four thousand dollars; to have no interest in any contract with either the insular or the home Government.

The shareholders of a stock company shall not be considered as Government contractors, even if the company has a contract with the Government.

ART. 7. Persons are also qualified to serve as councilors who, besides the above-stated requirements, have any of the following qualifications:

1. To be or to have been a senator of the Kingdom, or to possess the requirements for being a senator, in conformity with Article III of the constitution.

2. To have held for a period of two years any of the following offices: President, or prosecuting attorney of the pretorian court of Havana; rector of the University of Havana; councilor of administration in the council formerly thus designated; president of the Havana Chamber of Commerce; president of the Economic Society of Friends of the Country; president of the Sugar Planters' Association; president of the Tobacco Manufacturers' Union; president of the Merchants, Tradesmens, and Agriculturists' League; dean of the bar of Havana; mayor of Havana; president of the provincial assembly of Havana during two terms or of any provincial assembly during three terms; dean of either of the chapters of the two cathedrals.

3. Likewise may be elected or appointed as councilor any property owner from among the fifty taxpayers paying the highest taxes, either on real estate or on industries, commerce, arts, and the professions.

ART. 8. The councilors appointed by the Crown shall be appointed by special decrees, stating the qualification entitling the appointee to serve as councilor.

Councilors thus appointed shall hold office for life.

One-half the number of elective councilors shall be elected every five years, and the whole number shall be elected whenever the council of administration shall be dissolved by the Governor-General.

ART. 9. The qualifications required in order to be appointed or elected councilor of administration may be changed by a national law, at the request or upon the proposition of the insular chambers.

ART. 10. No councilor shall, during the session of the council, accept any civil office, promotion (unless it be strictly by seniority), title, or decoration; but any councilor may be appointed by either the local or the home government to any commission within his own profession or category, whenever the public service shall require it.

The secretaries of the insular government shall be excepted from the foregoing rule.

TITLE IV.

THE CHAMBER OF REPRESENTATIVES.

ART. 11. The chamber of representatives shall be composed of members named by the electoral boards in the manner prescribed by law and in the proportion of one for every twenty-five thousand inhabitants.

ART. 12. To be elected as representative the candidate must have the following requirements: To be a Spanish citizen, to be a layman, to have attained his majority, to be in full enjoyment of civil rights, to have been born in the island or to have had four years' constant residence therein, and not to be subject to any pending criminal prosecution.

ART. 13. Representatives shall be elected every five years, and any representative may be reelected any number of times.

The insular chamber shall determine what classes of offices are incompatible with the office of representative, as well as the cases governing reelection.

ART. 14. Any representative upon whom either the local or home government shall confer a pension, or any employment, promotion (unless it be by strict seniority), paid commission, title, or decoration, shall cease to be such without necessity of any declaration to that effect, unless he shall within fifteen days of his appointment notify the chamber of his having declined the favor.

The provisions of the preceding paragraph shall not include the representatives who shall be appointed members of the cabinet.

TITLE V.

PROCEEDINGS OF THE INSULAR CHAMBERS AND THEIR RELATIONS TO EACH OTHER.

ART. 15. The chambers will meet every year. The King, the governor-general acting in his name, shall convene, suspend, and adjourn the sessions and dissolve the chamber of representatives and the council of administration, either separately or simultaneously, under the obligation to call them together again or renew them within three months.

ART. 16. Each of the two legislative bodies shall determine the rules of their proceedings and shall be the judges of the qualifications of their respective members and the legality of their election.

Until the chamber and the council shall pass their own rules, they shall be governed by the rules of the national house of representatives and of the senate, respectively.

ART. 17. Each chamber shall choose its president, vice-president, and secretaries.

ART. 18. Neither chamber shall sit unless the other be sitting also, except when the council exercises judicial functions.

ART. 19. The two insular chambers shall not deliberate together nor in the presence of the Governor-General.

The sessions shall be public, but either chamber may hold secret sessions whenever business of a private nature shall require it.

ART. 20. To the Governor-General, through his secretaries, as well as to either of the two chambers, belongs the power to initiate and propose colonial statutes.

ART. 21. All colonial statutes in regard to taxes and the public credit shall originate in the chamber of representatives.

ART. 22. Resolutions may be passed by either chamber by a plurality of votes; but in order to pass a measure of a legislative character a majority of all the members constituting the body must be present. Nevertheless, one-third of the members shall constitute a quorum for deliberation.

ART. 23. No resolution or law shall be considered passed by the insular parliament unless it has had the concurrence of the chamber of representatives and the council of administration.

ART. 24. Every colonial statute, as soon as it has been approved in the form prescribed in the preceding article, shall be presented to the Governor-General by the officers of both chambers for his sanction and proclamation of the same.

ART. 25. Members of the council and the chamber of representatives shall have immunity for any speech or vote in either chamber.

ART. 26. No councilor of administration shall be indicted or arrested without a previous resolution of the council, unless he shall be found *in fraganti* or the council shall not be in session, but in every case notice shall be given to that body as soon as possible, that it may determine what should be done. Nor shall the representatives be indicted or arrested during the sessions without the permission of the chamber unless they are found *in fraganti*, but in this last case, or in case of indictment or arrest when the chamber is not sitting, notice shall be given as soon as possible to the chamber of representatives for its information and action. All proceedings against councilors and representatives shall be brought before the pretorian court at Havana in the cases and manner that shall be prescribed by colonial statutes.

ART. 27. The guarantees established in the foregoing section shall not apply to a councilor or representative who shall himself admit that

he is the author of any article, book, pamphlet, or printed matter wherein military sedition is incited or invoked, or the Governor-General is insulted and maligned, or national sovereignty is assailed.

ART. 28. The relations between the two chambers shall be governed, until otherwise provided, by the act of July 19, 1837, regulating the relations between the two legislative houses of the Cortes.

ART. 29. Besides the power of enacting laws for the colony the insular chambers shall have power:

1. To receive the oath of the Governor-General to preserve the constitution and the laws which guarantee the autonomy of the colony.

2. To enforce the responsibility of the secretaries of the executive, who shall be tried by the council, whenever impeached by the chamber of representatives.

3. To address the home Government through the Governor-General, proposing the abrogation or modification of existing laws of the Kingdom; to invite the home Government to present bills as to particular matters, or to ask a decision of an executive character on matters which interest the colony.

ART. 30. The Governor-General shall communicate to the home Government before presenting to the insular parliament any bill originating in the executive government of the island whenever, in his judgment, said bill may affect national interests. Should any such bill originate in the insular parliament, the government of the island shall ask for a postponement of the debate until the home Government shall have given its opinion.

In either case the correspondence passing between the two governments shall be laid before the chambers and published in the official Gazette.

ART. 31. All differences of jurisdiction between the several municipal, provincial, and insular assemblies, or between any of them and the executive, which by their nature may not be referred to the home Goverment, shall be submitted to the courts of justice in accordance with the rules herein prescribed.

TITLE VI.

POWERS VESTED IN THE INSULAR PARLIAMENT.

ART. 32. The insular chambers shall have power to pass upon all matters not specially and expressly reserved to the Cortes of the Kingdom or to the central Government as herein provided, or as may be provided hereafter, in accordance with the prescription set forth in additional article 2.

In this manner, and without implying that the following enumeration presupposes any limitation of their power to legislate on other subjects, they shall have power to legislate on all matters and subjects concerning the departments of justice, interior, treasury, public works, education, and agriculture.

They shall likewise have exclusive cognizance of all matters of a purely local nature which may principally affect the colonial territory; and to this end they shall have power to legislate on civil administration; on provincial, municipal, or judicial apportionment; on public health, by land or sea, and on public credit, banks, and the monetary system.

This power, however, shall not impair the powers vested in the colonial executive according to the laws in connection with the matters above mentioned.

ART. 33. It shall be incumbent upon the colonial parliament to make regulations under such national laws as may be passed by the Cortes and expressly intrusted to it. Especially among such measures, parliament shall legislate, and may do so at the first sitting, for the purpose of regulating the elections, the taking of the electoral census, qualifying electors, and exercising the right of suffrage; but in no event shall these dispositions affect the rights of the citizens, as established by the electoral laws.

ART. 34. Notwithstanding that the laws governing the judiciary and the administration of justice are of a national character, and therefore obligatory for the colony, the insular parliament may, within the provisions of said laws, make rules or propose to the home government such measures as shall render easier the admission, continuance, or promotion in the local courts of lawyers, natives of the island, or practicing therein.

The Governor-General in council shall have, as far as the island of Cuba is concerned, the same power that has been vested heretofore in the minister for the colonies for the appointment of the functionaries and subordinate and auxiliary officers of the judicial order and as to the other matters connected with the administration of justice.

ART. 35. The insular parliament shall have exclusive power to frame the local budget of expenditures and revenues, including the revenue corresponding to the island as her quota of the national budget.

To this end the Governor-General shall present to the chambers every year before the month of January the budget for the next fiscal year, divided in two parts, as follows: The first part shall state the revenues needed to defray the expenses of sovereignty, and the second part shall state the revenues and expenditures estimated for the maintenance of the colonial administration.

Neither chamber shall take up the budget of the colonial government without having finally voted the part for the maintenance of sovereignty.

ART. 36. The Cortes of the Kingdom shall determine what expenditures are to be considered by reason of their nature as obligatory expenses inherent to sovereignty, and shall fix the amount every three years and the revenue needed to defray the same, the Cortes reserving the right to alter this rule.

ART. 37. All treaties of commerce affecting the island of Cuba, be they suggested by the insular or by the home government, shall be made by the latter with the cooperation of special delegates duly authorized by the colonial government, whose concurrence shall be acknowledged upon submitting the treaties to the Cortes.

Said treaties, when approved by the Cortes, shall be proclaimed as laws of the Kingdom and as such shall obtain in the colony.

ART. 38. Notice shall be given to the insular government of any commercial treaties made without its participation as soon as said treaties shall become laws, to the end that, within a period of three months, it may declare its acceptance or nonacceptance of their stipulations. In case of acceptance the Governor-General shall cause the treaty to be published in the Gazette as a colonial statute.

ART. 39. The insular parliament shall also have power to frame the tariff and fix the duties to be paid on merchandise as well for its importation into the territory of the island as for the exportation thereof.

ART. 40. As a transition from the old régime to the new constitution, and until the home and insular governments may otherwise conjointly determine hereafter, the commercial relations between the island and the metropolis shall be governed by the following rules:

1. No differential duty, whether fiscal or otherwise, either on imports or exports, shall be imposed to the detriment of either insular or peninsular production.

2. The two governments shall make a schedule of articles of direct national origin to which shall be allowed by common consent preferential duty over similar foreign products.

In another schedule made in like manner shall be determined such articles of direct insular production as shall be entitled to privileged treatment on their importation into the peninsula and the amount of preferential duties thereon.

In neither case shall the preferential duty exceed 35 per cent.

Should the home and the colonial government agree upon the schedules and the preferential duties, they shall be considered final and shall be enforced at once. In case of disagreement the point in dispute shall be submitted to a committee of representatives of the Cortes, consisting of an equal number of Cubans and Peninsulars. The committee shall appoint its chairman, and in case of disagreement the eldest member shall preside. The chairman shall have the casting vote.

3. The valuation tables concerning the articles in the schedules above mentioned shall be fixed by mutual agreement, and shall be revised after discussion every two years. The modifications which may thereupon become necessary in the tariff duties shall be carried out at once by the respective governments.

TITLE VII.

THE GOVERNOR-GENERAL.

ART. 41. The supreme authority of the colony shall be vested in a Governor-General, appointed by the King on the nomination of the council of ministers. In his capacity he shall have as viceroyal patron the power inherent in the patronate of the Indies; he shall have command of all military and naval forces in the island; he shall act as delegate of the departments of state, war, navy, and the colonies; all other authorities in the island shall be subordinate to his, and he shall be responsible for the preservation of order and the safety of the colony.

The Governor-General shall, before taking possession of his office, take an oath in the presence of the King to discharge his duties faithfully and loyally.

ART. 42. The Governor-General, representing the nation, will discharge by himself and with the aid of his secretaries all the functions indicated in the preceding articles and such others as may devolve upon him as direct delegate of the King in matters of a national character.

It shall be incumbent upon the Governor General as representing the home government:

1. To appoint without restriction the secretaries of his cabinet.

2. To proclaim, execute, and cause to be executed in the island all laws, decrees, treaties, international covenants, and all other acts emanating from the legislative branch of the Government, as well as all decrees, royal commands, and other measures emanating from the executive which shall be communicated to him by the departments of which he acts as delegate.

Whenever in his judgment and in that of his secretaries he considers the resolutions of the home government as liable to injure the general interests of the nation or the special interests of the island, he shall have power to suspend the publication and execution thereof, and shall so notify the respective department, stating the reasons for his action.

3. To grant pardons in the name of the King, within the limitations specially prescribed to him in his instructions from the Government, and to stay the execution of a death sentence whenever the gravity of the circumstances shall so demand or the urgency of the case shall allow of no time to solicit and obtain His Majesty's pardon; but in either case he shall hear the counsel of his secretaries.

4. To suspend the guarantees set forth in articles 3, 5, 6, and 9, and in the first, second, and third paragraphs of article 13 of the constitution; to enforce legislation in regard to public order, and to take all measures which he may deem necessary to preserve the peace within and the safety without for the territory entrusted to him after hearing the counsel of his cabinet.

5. To take care that in the colony justice be promptly and fully

administered, and that it shall always be administered in the name of the King.

6. To hold direct communication on foreign affairs with the ministers, diplomatic agents, and consuls of Spain throughout America.

A full copy of such correspondence shall be simultaneously forwarded to the home Department of State.

ART. 43. It behooves the Governor-General, as the superior authority in the colony and head of its administration:

1. To take care that the rights, powers, and privileges now vested or that may henceforth be vested in the colonial administration be respected and protected.

2. To sanction and proclaim the acts of the insular parliament, which shall be submitted to him by the president and secretaries of the respective chambers.

Whenever, in the judgment of the Governor-General, an act of the insular parliament goes beyond its powers or impairs the rights of the citizens as set forth in Article I of the constitution, or curtails the guarantees prescribed by law for the exercise of said rights, or jeopards the interest of the colony or of the nation, he shall forward the act to the council of ministers of the Kingdom, which, within a period that shall not exceed two months, shall either assent to it or return it to the Governor-General with the objections to its sanction and proclamation. The insular parliament may, in view of the objections, reconsider or modify the act, if it deems fit, without a special proposition.

If two months shall elapse without the central government giving any opinion as to a measure agreed upon by the chambers which has been transmitted to it by the Governor-General, the latter shall sanction and proclaim the same.

3. To appoint, suspend, and discharge the employees of the colonial administration, upon the suggestion of the secretaries of the departments and in accordance with the laws.

4. To appoint and remove, without restriction, the secretaries of his cabinet.

ART. 44. No executive order of the Governor-General, acting as representative and chief of the colony, shall take effect unless countersigned by a secretary of the cabinet, who by this act alone shall make himself responsible for the same.

ART. 45. There shall be five secretaries of department, to wit:

Grace and justice and interior; finance; public education, public works and posts and telegraphs; agriculture, industry, and commerce.

The Governor-General shall appoint the president of the cabinet from among the secretaries, and shall also have power to appoint a president without a secretaryship.

The power to increase or diminish the number of secretaries composing the colonial cabinet, and to determine the scope of each department, is vested in the insular parliament.

ART. 46. The secretaries of the cabinet may be members of either the chamber of representatives or the council of administration and take part in the debates of either chamber, but a secretary shall only vote in the chamber of which he is a member.

ART. 47. The secretaries of the cabinet shall be responsible to the insular parliament.

ART. 48. The Governor-General shall not modify or abrogate his own orders after they are assented to by the home Government, or when they shall declare some rights, or when a sentence by a judicial court or administrative tribunal shall have been based upon said orders, or when they shall deal with his own competency.

ART. 49. The Governor-General shall not turn over his office when leaving the island except by special command from the home government. In case of absence from the seat of government which prevents his discharging the duties of his office or of disability to perform such duties, he can appoint one or more persons to take his place, provided the home government has not previously done so or the method of substitution shall not be stated in his instructions.

ART. 50. The supreme court shall have the sole power to try the Governor-General when impeached for his responsibilities as defined by the Penal Code.

The council of ministers shall take cognizance of his other responsibilities.

ART. 51. The Governor-General shall have the power, in spite of the provisions of the different articles of this decree, to act upon his own responsibility, without consulting his secretaries, in the following cases:

1. When forwarding to the home Government a bill passed by the insular parliament, especially when, in his opinion, it shall abridge the rights set forth in Article 1 of the constitution of the monarchy or the guarantees for the exercise thereof vouchsafed by the laws.

2. When it shall be necessary to enforce the law or public order, especially if there be no time or possibility to consult the home Government.

3. When enforcing the national laws that shall have been approved by the Crown and made applicable to all of the Spanish or to the colony under his government.

The proceedings and means of action which the Governor-General shall employ in the above cases shall be determined by a special law.

TITLE VIII.

MUNICIPAL AND PROVINCIAL GOVERNMENT.

ART. 52. Municipal organization shall be compulsory for every group of population of more than one thousand inhabitants.

Groups of less number of inhabitants may organize the service of their community by special covenants.

Every legally constituted municipality shall have power to frame its own laws regarding public education; highways by land, river, and sea; public health; municipal finances, as well as to freely appoint and remove its own employees.

ART. 53. At the head of each province there shall be an assembly, which shall be elected in the manner provided for by the colonial statutes, and shall be composed of a number of members in proportion to the population.

ART. 54. The provincial assembly shall be autonomous as regards the creation and maintenance of public schools and colleges; charitable institutions and provincial roads and ways by land, river, or sea; also as regards their own budgets and the appointment and removal of their respective employees.

ART. 55. The municipalities, as well as the provincial assemblies, shall have power to freely raise the necessary revenue to cover their expenditures, with no other limitation than to make the means adopted compatible with the general system of taxation which shall obtain in the island.

The resources for provincial appropriations shall be independent of municipal resources.

ART. 56. The mayors and presidents of boards of aldermen shall be chosen by their respective boards from among their members.

ART. 57. The mayors shall discharge without limitation the active duties of the municipal administration, as executors of the resolutions of the board of aldermen or their representatives.

ART. 58. The aldermen and the provincial assemblymen shall be civilly responsible for the damages caused by their acts.

Their responsibility shall be exacted before the ordinary courts of justice.

ART. 59. The provincial assemblies shall freely choose their respective presidents.

ART. 60. The elections of aldermen and assemblymen shall be conducted in such manner as to allow for a legitimate representation of the minorities.

ART. 61. The provincial and municipal laws now obtaining in the island shall continue in vogue, wherever not in conflict with the provisions of this decree, until the insular parliament shall legislate upon the matter.

ART. 62. No colonial statute shall abridge the powers vested by the preceding articles in the municipalities and the provincial assemblies.

TITLE IX.

AS TO THE GUARANTIES FOR THE FULFILLMENT OF THE COLONIAL CONSTITUTION.

ART. 63. Whenever a citizen shall consider that his rights have been violated or his interests injured by the action of a municipality or a

provincial assembly he shall have the right to apply to the courts of justice for redress.

The department of justice shall, if so required by the agents of the executive government of the colony, prosecute before the courts the boards of aldermen or provincial assemblies charged with breaking the laws or abusing their power.

ART. 64. In the cases referred to in the preceding article, the following courts shall have jurisdiction: The territorial audiencia shall try all claims against municipalities; and the pretorian court of Havana shall try all claims against provincial assemblies.

Said courts, when the charges against any of the above-mentioned corporations shall be for abuse of power, shall render their decisions by a full bench. From the decision of the Territorial audiencia an appeal shall be allowed to the pretorian court of Havana, and from the decisions of the latter an appeal shall be allowed to the supreme court of the Kingdom.

ART. 65. The redress of grievances which Article 62 grants to any citizen can also be had collectively by means of public action, by appointing an attorney or representative claimant.

ART. 66. Without in any way impairing the powers vested in the Governor-General by Title V of the present decree, he may, whenever he deems fit, appear before the pretorian court of Havana in his capacity as chief of the executive government of the colony, to the end that said court shall finally decide any conflict of jurisdiction between the executive power and the legislative chambers of the colony.

ART. 67. Should any question of jurisdiction be raised between the insular Parliament and the Governor-General in his capacity as representative of the home government, which shall not have been submitted to the council of ministers of the Kingdom by petition of the insular Parliament, either party shall have power to bring the matter before the supreme court of the Kingdom, which shall render its decision by a full bench and in the first instance.

ART. 68. The decisions rendered in all cases provided for in the preceding articles shall be published in the collection of colonial statutes and shall form part of the insular legislation.

ART. 69. Every municipal measure for the purpose of contracting a loan or a municipal debt shall be without effect, unless it be assented to by a majority of the townspeople whenever one-third of the number of aldermen shall so demand.

The amount of the loan or debt which, according to the number of inhabitants of a township, shall make the referendum proceeding necessary, shall be determined by special statute.

ART. 70. All legislative acts originating in the insular parliament or the cortes shall be compiled under the title of colonial statutes in a legislative collection, the formation and publication of which shall be entrusted to the Governor-General as chief of the colonial executive.

ADDITIONAL ARTICLES.

ART. 1. Until the colonial statutes shall be published in due form, the laws of the Kingdom shall be deemed applicable to all matters reserved to the jurisdiction of the insular government.

ART. 2. When the present constitution shall be once approved by the Cortes of the Kingdom for the islands of Cuba and Porto Rico, it shall not be amended except by virtue of a special law and upon the petition of the insular parliament.

ART. 3. The provisions of the present decree shall obtain in their entirety in the island of Porto Rico; they shall, however, be ordained by special decree in order to conform them to the population and nomenclature of said island.

ART. 4. Pending contracts for public services affecting in common the Antilles and the Peninsula shall continue in their present shape until termination, and shall be entirely governed by the conditions and stipulations therein made.

As regards other contracts already entered into, but not yet in operation, the Governor-General shall consult the home government, or the colonial chambers, as the case may be, and the two governments shall by mutual accord decide as between themselves the final form of such contract.

TRANSITORY PROVISIONS.

ART. 1. With a view to carry out the transition from the present régime to the system hereby established with the greatest possible dispatch and the least interruption of the public business, the Governor-General shall, whenever he deems it timely and after consulting the home Government, appoint the secretaries of the executive office as per article 45 of this decree, and with their aid he shall conduct the local government of the island until the insular chambers shall have been constituted. The secretaries thus appointed shall vacate their offices as soon as the Governor-General shall take his oath of office before the insular chambers, and the Governor-General shall immediately appoint as their successors the members of parliament who, in his judgment, most fully represent the majorities in the chamber of representatives and the council of administration.

ART. 2. The manner of meeting the expenditures occasioned by the debt now weighing upon the Spanish and Cuban treasuries, and the debt that may be contracted until the termination of the war, shall be determined by a law fixing the share that shall be borne by each treasury, and the special ways and means for the payment of the interest, and the sinking fund, and for refunding the principal in due time.

Until the Cortes of the Kingdom shall decide this point no changes shall be made in the conditions under which said debts were contracted, nor in the payment of the interest, nor provisions for a sinking fund,

nor in the guarantees which they enjoy, nor in the actual terms of payment.

When the Cortes shall have apportioned the shares, each of the two treasuries shall take upon itself the payment of the share allotted.

In no event shall the obligations contracted towards the lenders on the faith of the Spanish nation cease to be scrupulously respected.

Issued in the Palace, Madrid, November 25, 1897.

MARIA CRISTINA.

The President of the Council of Ministers,

PRÁXEDES MATEO SAGASTA.

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